IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 155/2007

GOVIND VS. STATE OF RAJASTHAN

DATE: 09.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Hari Krishna Sharma for the accused- petitioner.
Mr. S.N. Gupta, Public Prosecutor for the State.
Mr. Rajnish Gupta for the complainant-respondent No.2.

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Heard.

The application for impleading complainant Gajanand as respondent No.2 in the present revision petition is allowed.

Another application along with the compromise arrived at between the parties duly signed and attested by the Deputy Registrar (Judl.) of this Court has been submitted by the parties for taking the same on record. As per the compromise, the parties do not want to pursue the matter.

Learned counsel for the respective parties placed reliance on the judgment rendered by this Court in the case **Banwari & 7 Ors. Vs. State of Rajasthan, reported in 2002 WLC(Raj.) UC 460** and in Abdul Nadeem

Vs. State of Rajasthan- 2001 WLC (Raj.) UC 553, Parmeshwari & Ors. Vs. Vanil-2000(1) SCC 248, Kishore Kumar Vs. State of Rajasthan & another-1997(3) Crimes 129 and Mahesh Chand & another Vs. State of Rajasthan-1989 C.L.J. 121.

In the present matter, vide judgment dated 18.12.1995 passed by the Additional Chief Judicial Magistrate, Karauli in Criminal Case No. 269/91, the accused-petitioner has been convicted under Sections 326 and 323 IPC and sentenced to undergo S.I. for two years and a fine of Rs. 200/-, in default of payment of fine to further undergo S.I. for 1-1/2 months under Section 326 IPC and to undergo S.I. for three months and a fine of Rs. 50/-, in default of payment of fine to further undergo S.I. for 1-1/2 months under Section 323 IPC and both the sentenced were ordered to run concurrently. Against the said judgment dated 18.12.95, the accused-petitioner preferred a criminal appeal bearing No. 1/96 and the same was dismissed by the District & Sessions Judge, Karauli vide its judgment dated 07.11.98.

Although offence under Section 326 IPC is non-compoundable but having gone through the judgments referred before me, in **Banwari & 7 Ors. (supra),** this

Court has held that offence under Section 326 Penal Code for trial as being non-compoundable, but since the parties have entered into a compromise on such eventuality no use to proceed with trial and complainant do not want to pursue the matter and it will be futile exercise, therefore, the trial Court directed to permit composition and drop proceedings.

Having heard rival submissions of the respective parties and considering the ratio decided by the Hon'ble Supreme Court and this Court as also the provisions of sub-clause (6) and (8) of Section 320 Cr.P.C., the sentence awarded to the accused-petitioner Govind S/o Johari by the trial Court and the Appellate Court is modified and he is sentenced to the period already undergone by him. Since the accused-petitioner is in jail, he shall be released forthwith if not required to be detained in any other case.

The revision petition stands allowed accordingly.

Both the applications also stand allowed. The compromise filed along with the application be taken on record.

(K.S. RATHORE),J.

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